

Commission Response to Applicant Questions October 2013

Question: If more than eight applications are recommended for approval by the Commission and/or by Spokane Public Schools, how will the lottery process work? Will applications be approved on a rolling basis? If more than eight schools are approved, how will the first seven schools (not placed in the lottery) be chosen?

Response: WAC 180-19-090 sets out the State Board's lottery process. Under that rule, schools will be certified by the State Board as they are received. However, if the number of approved schools submitted on the same day exceeds the limits in RCW 28A.710.150(1), then the State Board will certify schools using the lottery. Schools that exceed the limit for a given year will be certified to open in a subsequent year. The Commission will not be approving schools on a rolling basis during this review period.

Question: How should the applicant present the application if the KNOW they will need a planning year?

Response: The current RFP is for schools that plan to open in the fall of 2014. For those applicants who believe they will require an extension beyond the presumptive delay, a request for extension should be included in the application. The request for extension should include an explanation of why the extension is needed. Depending upon the school's circumstances, the Commission will exercise its discretion to approve or deny the request.

Question: In Section 2 re: "Startup and Ongoing Operations" (RFP p. 32), how specific do applicants need to be in their plans for safety and security, food services, etc.? For example, do applicants need to have selected a food services provider or simply a plan for selecting one? This question is from an operator who would defer to open in 2015.

Response: RCW 28A.710.130(2)(y) requires applicants to submit their "[p]lans for providing transportation, food service, and all other significant operational or ancillary services." The amount of detail required in each instance must be sufficient to enable the Commission to evaluate whether the plan is viable including, but not limited to, plans for implementation, identification of vendors (if applicable), and funding of these services.

Question: What are the Commission's expectations re: the required transportation plan (RFP, p. 32)? How much detail is expected at the application stage for schools planning to defer to 2015-16? Would a sufficient transportation plan include use of transportation funding for student bus passes?

Response: The Commission requires applicants to clearly articulate how students will get to and from school. It is also important for applicants to show evidence of advance planning concerning transportation of students for future years of operation. The Commission has contacted OSPI to determine transportation allocation information and will post information it receives to the Commission's website and Fluid Review.

Question: We are writing to inquire about the "Clear Student Recruitment, Enrollment and Lottery Procedures" Component of the Washington State Charter School Law. As we have used the National Alliance for Public Charter Schools Tool for Comparing State Charter School Laws, we have realized that Washington has no enrollment preferences for children of a school's founders, governing board members, and full-time employees, not exceeding 10% of the school's total student population as described in 12D. This is of serious concern to us, not only as founders, but also in light of the fact that the lack of this enrollment preference could be a deterrent for prospective employees, if their children are not guaranteed enrollment in the school. It is our desire that the Commission will do everything in its power to add this enrollment preference, especially since it has been adopted by several other states. It is also our understanding that this preference is given to children of employees in traditional public schools in Washington who live outside of the school boundaries.

Response: Thank you for communicating your concern about the lack of preference for children of the school's founders, governing board members, and full time employees. Because the Charter Schools Act was enacted through the initiative process, it cannot be substantively amended for two years. Over the next couple of years, the Commission will be gathering information and feedback to help inform its decisions about whether to propose amendments to the Charter Schools Act. Your concern has been noted and the Commission will consider how to proceed once the Act can be amended.

Question: Can an applicant include a pre-Kindergarten program as an essential component of their school's education model?

Response: An applicant may include a pre-Kindergarten program as an essential component of its school's education model. However, such a program would not be entitled to funding through OSPI. If the pre-Kindergarten program is a mandatory component of the school's education program it would need to be provided to students free of charge. Therefore, if a mandatory pre-Kindergarten component is included in the school's education model, the applicant must clearly delineate how the program would be funded, be sustainable, and how the school would obtain the necessary licensure and approval for operating such a program.

If a pre-Kindergarten program will be offered by the school, but will not be a mandatory component of the program, the school is not prohibited from charging for the program. RCW 28A.710.050(2).

Question: Is there an opportunity to submit public comment re: the Commission's recently released Request for Proposals? If so, what is the deadline?

Response: The deadline for submission of applicant questions and comments was October 7, 2013. The Public will have an opportunity to comment on the proposed applications during the public forum. The RFP process does not contain a mechanism for those who are not involved in responding to the solicitation to submit questions.

However, the Commission welcomes feedback. Should you have a comment regarding the RFP, you may provide it to: RaShelle Davis, rashelle.davis@gov.wa.gov

Additionally, the Commission receives public comment during its regularly scheduled meetings. The Commission's next meeting is November 7, 2013.

Question: Can you please clarify what local funds charter schools are entitled to receive in addition to the state funds as outlined by the OSPI Per Pupil Enrollment formula? Is it true that charter schools authorized by school boards are entitled to levy money once their doors are open? What then, for charter schools authorized by the Commission?

Response: OSPI's per pupil enrollment formula does not include local funds. The Charter Schools Act contains some provisions that allow for receipt of levy funds in certain specified circumstances. Those provisions specifically state:

(5) For charter schools authorized by a school district board of directors, allocations to a charter school that are included in RCW 84.52.0531(3) (a) through (c) shall be included in the levy planning, budgets, and funding distribution in the same manner as other public schools in the district.

(6) Conversion charter schools are eligible for local levy moneys approved by the voters before the conversion start-up date of the school as determined by the authorizer, and the school district must allocate levy moneys to a conversion charter school.

(7) New charter schools are not eligible for local levy moneys approved by the voters before the start-up date of the school unless the local school district is the authorizer.

(8) For levies submitted to voters after the start-up date of a charter school authorized under this chapter, the charter school must be included in levy planning, budgets, and funding distribution in the same manner as other public schools in the district.

RCW 28A.710.220. With the exception of subsection (5), each of these provisions applies equally to charter schools regardless of whether it is authorized by a school district authorizer, or the Commission. Under the Charter Schools Act's levy provisions, the amount of levy funding available to a charter school will depend upon which of the above listed provisions apply, and the specific terms of any local levy.

Question: Are there standards that the Commission has developed to evaluate the success of approved charter schools, beyond the standardized state test scores?

Response: The Commission has adopted its performance framework, which can be found at Chapter 108-30 WAC. Additionally, the applicant can identify standards that it wants used to measure its school's success. School specific assessments should be identified in the application and, if approved, will be incorporated into the individual school's charter contract.

Question: Does a CMO planning to apply to operate two separate schools need to submit separate applications for each school? Or submit only one application for the two schools?

Response: Any applicant that wants to open more than one school must submit a separate application for each proposed school.

Question: In the Oct. 7 application workshop, NACSA instructed applicants that narrative cannot be added to the appendix. What documents might be helpful for a charter operator to include as attachments? Will Fluid Review allow applicants to upload attachments that aren't required in the application but could be helpful in describing their model?

Response: No additional documents will be able to be uploaded via Fluid Review-the Room will accept only those documents and attachments requested as part of the RFP. The Charter Schools Act, Commission's rules, terms of the RFP (and associated documents), and written responses to questions submitted in the RFP process are the only terms that govern the application process. Applicants should not rely on verbal statements, unless they are subsequently committed to writing by the RFP Coordinator.

Question: Can applicants bring documents to their interview? For example, can they be prepared to share a sample course map?

Response: No, applicants may not bring additional documents to the interview.

Question: Given uncertainty re: whether charter school employees will be eligible to participate in the school employees' and public employees retirement systems (b/c DRS may not be able to receive determination from the IRS and Dept. of Labor that participation does not jeopardize the status of these retirement systems as government plans, per RCW 41.35.035 and 41.40.025), how should charter applicants budget for retirement costs for purposes of the application?

Response: Given that it is uncertain whether charter school employees will be able to participate in the public employee's retirement system, applicants should submit viable alternative plans for funding of employees' benefits.

Question: Will charter schools be subject to audits by the state auditor? Or required to submit independent audits to the Commission? The charter law requires charter schools to "adhere to generally accepted accounting principles and be subject to financial examinations and audits as determined by the state auditor, including annual audits for legal and fiscal compliance." (RCW 28A.710(2)(e).) The Commission's recently adopted rules require charter schools to submit "independent audit reports" but do not address the role (if any) of the state auditor (WAC 108-30-040(1)(c)).

Response: As public school, a charter school will be subject to audit by the Washington State Auditor's Office. As a non-profit the charter school must also comply with all state and federal audit requirements. Finally, under the provisions of the charter school contract, the school must pay for an independent financial audit each year and provide the results of that audit to the Commission. Any audit conducted by the State Auditor's Office does not substitute for the independent audit requirement.

Question: What does the "state accountability plan" mentioned in the RFP on p. 30 and p. 31 refer to?

Response: The state accountability plan includes the accountability measures administered by the Superintendent of Public Instruction and the State Board of Education.

Question: Does an existing out-of-state nonprofit corporation (e.g., a CMO that currently operates schools in another state) need to form a Washington nonprofit corporation before applying to operate a charter school? Or can the out-of-state corporation procure a certificate of authority from the secretary of state to operate in Washington as a foreign corporation?

Response: Under the Charter Schools Act an applicant must be an existing public benefit nonprofit corporation, or a nonprofit corporation that has applied for tax exempt status under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not be a sectarian or religious organization and must meet all of the requirements for a public benefit nonprofit corporation before receiving any funding under RCW 28A.710.220. RCW 28A.710.010(1). Therefore, an applicant must be an existing non-profit corporation that has applied for tax exempt status under 501(c)(3) at the time of application. However, once approved, in order to be eligible for funding, the applicant must comply with all of the provisions of Chapter 24.03 RCW pertaining to public benefit non-profit corporations. To the extent that your question seeks individualized legal advice associated with your unique legal status, you should consult with an attorney.